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10/553,255	10/11/2005	Walter Gramlich	2003P00605WOUS	1809

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BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

EXAMINER

BERNSTEIN, DANIEL A

ART UNIT	PAPER NUMBER
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4166

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/553,255	Applicant(s) GRAMLICH ET AL.	
	Examiner DANIEL A. BERNSTEIN	Art Unit 4166	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/11/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The recitation cooking device has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).
2. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Specification

3. Claim 22 is objected to because of the following informalities: The claim is objected to because of the phrase "closed by transverse reflector surfaces". Although it is clear which surface this claim refers to, in later claims it becomes confusing which transverse reflector surface the applicant is claiming (for instance, claim 26). The claim should be changed to distinguish reflector 44 from reflectors 42 and 43 as shown in Fig. 2 of the drawings. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 22-31, 33-34, and 40 rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 2,442,921 to Drake et al. (Drake).

In Reference to Claim 22

A cooking device, comprising: a cooking chamber (10, see Fig.1); a lighting unit for illuminating said cooking chamber (12, see Fig 5); said lighting unit including at least a first reflector (first curved surface of 19) and a light source (23); said first reflector including at least a first reflector surface (19) which reflects the light from said light source into said cooking chamber (10) as diffuse scattered light (D) (Column 3, lines 21-26); said first reflector including at least one second transverse reflector surface (second curved surface of 19) arranged transversely to said first reflector surface which reflects the light of said light source into said cooking chamber in a focused manner (it is inherent that curved surfaces direct light in a focused manner, because curved surfaces have a focal point); said first reflector surface constructed as a curved groove shape (19) and having front ends of said first reflector surface constructed as a curved groove shape and closed by transverse reflector surfaces (plate 21 and 22). [It should be noted that the claim does not require any heating means to differentiate the cooking chamber from any other chamber. The broadest reasonable definition of "cooking" does not always require heat].

In Reference to Claim 23

The cooking device according to claim 22 (see rejection of claim 22), including said traverse reflector surfaces (surfaces 21 and 22 reflect onto two curved surfaces of 19) reflect the light into said cooking chamber as a light cone (K) (curved surfaces, in this case 19, inherently reflect light as a light cone).

In Reference to Claim 24

The cooking device according to claim 22 (see rejection of claim 22), including said traverse reflector surfaces (both surfaces of 19) reflect the light into said cooking chamber in an almost parallel beam profile (inherently, some light reflecting off of 19 will be reflected in an "almost" parallel beam profile. The term "almost" is too broad to limit or constrain the light to any particular profile.)

In Reference to Claim 25

The cooking device according to claim 22 (see rejection of claim 22), including said traverse reflector surfaces constructed as one of a substantially flat or a substantially arched surface (19, shows an arced reflector surface).

In Reference to Claim 26

The cooking device according to claim 22 (see rejection of claim 22), including a first one of said transverse reflector surfaces (21) deflects the light of said light source in the direction of the other of said transverse reflector surfaces (21 deflects light towards 22).

In Reference to Claim 27

The cooking device according to claim 22 (see rejection of claim 22), including said first reflector surface (19) delimits a light guiding compartment (all of structure 12 defines a light guide).

In Reference to Claim 28

The cooking device according to claim 27 (see rejection of claim 27), including said transverse reflector surfaces (21 and 22) arranged in said light guiding compartment (12).

In Reference to Claim 29

The cooking device according to claim 22 (see rejection of claim 22), including at least one of said first and second reflector surfaces (both curved surfaces of 19) constructed in one piece (12 which contains both curved surfaces of 19) with said reflector.

In Reference to Claim 30

The cooking device according to claim 22 (see rejection of claim 22), including a rounded transition surface formed between said first reflector surface and said second transverse reflector surface (first reflector surface of 19 separated from second reflector surface of 19 by 20).

In Reference to Claim 31

The cooking device according to claim 22 (see rejection of claim 22), including a roughened surface structure (inherently all surfaces are considered roughened, therefore "roughened" is interpreted as a method step and given no patentable weight in this structure claim) on at least of said second transverse reflector (19).

In Reference to Claim 33

The cooking device according to claim 27 (see rejection of claim 27), including said light guiding compartment (12) of said reflector includes at least a portion substantially transparent to said cooking chamber (26, Column 3 lines 24-26).

In Reference to Claim 34

The cooking device according to claim 27, including a light channel opaque (26, Column 3 lines 27-29, where 26 may be frosted) towards the outside of said light guiding compartment (12) formed in at least a portion of said reflector (forms the cover of 12).

In Reference to Claim 40

The cooking device according to claim 27 (see rejection of claim 27), including said transverse reflector surfaces (both surfaces of 19) arranged in said light-guiding compartment (12) of said reflector are arranged offset with respect to one another (both surfaces of 19 are "offset" from each other by 20. The applicant does not define "offset" in the specification, therefore "offset" is interpreted as an abrupt bend in an object by which one part is turned aside out of line.)

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 32 and 35-39 rejected under 35 U.S.C. 103(a) as being unpatentable over Drake in view of US Patent No. 5,960,785 to Byrne et al. (Byrne).

In Reference to Claim 32

Drake teaches a cooking device of claim 27 with a door (15, see Fig. 2) for closing said cooking chamber. Drake does not teach a reflector arranged in said cooking device door.

Byrne teaches a cooking device door (16, see Fig. 2) for closing said cooking chamber (12) and said reflector (see Fig. 3) arranged in said cooking device door.

It would be have been obvious at the time the invention was made to a person having ordinary skill in the art to have rearranged the reflector of Drake in the door (16) as taught by Byrne because the rearrangement would have advantageously allowed easier access to the light fixture components as would have been well known.

In Reference to Claim 35

Drake as modified by Byrne suggests a light source arranged outside a cooking device door and emits light in the direction of said reflector (see the rejection of claim 32 above). The position of the light source does not effect the operation of the reflector and therefore it is obvious to rearrange the parts of Drake and Byrne to achieve the same function of the claim.

In Reference to Claim 36

Drake as modified by Byrne suggests a cooking device of claim 32 where a light guiding compartment (12), of said reflector is closed on the interior side of said door.

See the rejection of claim 32 where the rearrangement of Drake and Byrne would form a light guiding compartment of said reflector closed on the interior side of said door.

In Reference to Claim 37

Drake as modified by Byrne suggests the cooking device of claim 36 including a door inner pane facing said cooking chamber and said reflector together with a door inner pane that closes a light guiding compartment.

Byrne teaches a reflector (see Fig. 3) together with a door inner pane (46) that closes a light guiding compartment (52). See the rejection of claim 32 for rearrangement of parts.

In Reference to Claim 38

Drake as modified by Byrne suggests the cooking device of claim 32 including at least one mounting section for affixing said reflector inside said cooking device door formed on said reflector. Byrne teaches a mounting section (retainer plate 46, see Fig. 2) for affixing said reflector (see Fig. 3) inside said cooking device door (16) formed on said reflector. See rejection of claim 32 for rearrangement of parts.

In Reference to Claim 39

Drake as modified by Byrne suggests a cooking device of claim 32 with a door including a door intermediate pane and at least one retaining attachment (pins or screws 50 hold 46 in place) constructed in said cooking device door (16) for retaining said intermediate pane (46). See rejection of claim 32 for rearrangement of parts.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL A. BERNSTEIN whose telephone number is (571)270-5803. The examiner can normally be reached on Monday-Friday 8:00 AM - 5:00 PM EDT.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ken Bomberg can be reached on 571-272-4922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DAB

/Kenneth Bomberg/

Supervisory Patent Examiner, Art Unit 4166